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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 03/08/2004

DAVID L MCCOMBS  
HAYNES AND BOONE  
3100 NATIONS BANK PLAZA  
901 MAIN STREET  
DALLAS, TX 752023789

EXAMINER

POINVIL, FRANTZY

ART UNIT PAPER NUMBER

3628

DATE MAILED: 03/08/2004

24

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/224,027

12/31/1998

JOSEPH AUGUST GIORDANO

PE-95-13-(55

4204

TITLE OF INVENTION: DISPENSING SYSTEM AND METHOD WITH RADIO FREQUENCY CUSTOMER IDENTIFICATION

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
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nonprovisional

NO

\$1330

\$0

\$1330

06/08/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing in applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
(703) 746-4000

or Fax

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590

03/08/2004

DAVID L MCCOMBS  
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DALLAS, TX 752023789

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

	(Depositor's name)
	(Signature)
	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/224,027	12/31/1998	JOSEPH AUGUST GIORDANO	PE-95-13-(55	4204

TITLE OF INVENTION: DISPENSING SYSTEM AND METHOD WITH RADIO FREQUENCY CUSTOMER IDENTIFICATION

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$0	\$1330	06/08/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
POINVIL, FRANTZY	3628	705-023000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_

## 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☐ corporation or other private group entity ☐ government

## 4a. The following fee(s) are enclosed:

- ☐ Issue Fee
- ☐ Publication Fee
- ☐ Advance Order - # of Copies \_\_\_\_\_

## 4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)



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09/224,027	12/31/1998	JOSEPH AUGUST GIORDANO	PE-95-13-(55	4204

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## Determination of Patent Term Extension under 35 U.S.C. 154 (b) (application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

# Notice of Allowability

Application No.  
09/224,027

Applicant(s)  
Giordano et al.

Examiner  
Frantzy Poinvil

Art Unit  
2164



--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Request Continuation Examination filed 5/29/01.
2. ☒ The allowed claim(s) is/are 25, 27-32, 50, 51, and 53-57.
3. ☒ The drawings filed on May 29, 2001 are acceptable as formal drawings.
4. ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).  
\*Certified copies not received: \_\_\_\_\_

5. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

6. ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
7. ☐ Applicant MUST submit NEW FORMAL DRAWINGS  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.  
(b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the examiner.  
(c) ☐ including changes required by the attached Examiner's Amendment/Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

8. ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

## Attachment(s)

- 1 ☐ Notice of References Cited (PTO-892)  
3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
5 ☒ Information Disclosure Statement(s) (PTO-1449), Paper No(s) 16, 18, 22  
7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material  
9 ☐ Other
- 2 ☐ Notice of Informal Patent Application (PTO-152)  
4 ☐ Interview Summary (PTO-413), Paper No. \_\_\_\_\_.  
6 ☐ Examiner's Amendment/Comment  
8 ☒ Examiner's Statement of Reasons for Allowance

FRANTZY POINVIL  
PRIMARY EXAMINER  
A 02164

Art Unit: 2164

## DETAILED ACTION

### *Allowable Subject Matter*

1. The following is an Examiner's Statement of Reasons for Allowance:

Suekane (JP401282696A) disclosed a prepaid card for purchasing gasoline at a gas station.

Randelman et al (US Patent No. 5,072,380) disclosed a system and method for identifying a vehicle mounted transponder in a prescribed area of a service station. Radio Frequency signals from the transponder are detected by an antenna and customer identification data is read from the transponder into the system. The transponder activates the fuel dispensing system and allows the customer in the vehicle to fuel the vehicle upon proper identification.

McCrindle et al (GB 2222714A) disclosed a cashless payment system for purchasing gasoline at a gas station.

"Buying gas at the pump no longer requires a card or cash...", Business Wire, p4040100, dialog file 148, Accession No. 09402394) disclosed an automated system in which an antenna mounted in a postage stamp sized keychain communicates with a gas pump from a distance using radio waves. The customer is identified and may begin to fuel his/her vehicle.

The prior art taken alone or in combination failed to teach or suggest if a vehicle-mounted transponder is determined to be within the operable range of one of the first electromagnetic fields and if a hand-held transponder is determined to be within the operable range of one of the second

**Art Unit: 2164**

electromagnetic fields corresponding to the same fuel dispenser, then overriding the use of the customer identification data from the vehicle-mounted transponder so that the customer identification data from the handheld transponder may be used to process the transaction at the fuel dispenser taken in combination with a fuel dispensing method with radio frequency customer identification capabilities as recited in independent claim 25.

The prior art taken alone or in combination failed to teach or suggest a processing equipment being operable to override the use of the vehicle-mounted transponder for charging the transaction to the customer and instead allowing use of the hand-held transponder for charging the transaction to the customer when both the vehicle-mounted transponder and hand-held transponder are within the respective predetermined long range and short range of the dispensing area taken in combination with a dispensing system with radio frequency customer identification capabilities as recited in independent claim 50.

The prior art taken alone or in combination failed to teach or suggest if both a vehicle-mounted transponder and a handheld transponder are determined to be within the respective vehicle fueling range and close range before the dispenser is activated, overriding the use at the dispenser of the vehicle-mounted transponder, whereupon following activation of the dispenser the hand-held customer identification data received by the reader is associated with a transaction at the activated dispenser, the transaction at the activated dispenser is permitted and charged to the customer according to the handheld transponder customer identification data taken in combination with a fuel dispensing method as recited in independent claim 55.

Art Unit: 2164

The prior art taken alone or in combination failed to teach or suggest determining whether a hand-held transponder containing customer identification data is within a close range of a dispenser, the close range being smaller than the vehicle fueling range of the dispenser and providing an in-range indication to the customer when a vehicle -mounted transponder is within the vehicle fueling range or a hand-held transponder is within the close range taken in combination with a fuel dispensing method as recited in independent claim 56.

The prior art taken alone or in combination failed to teach or suggest if both a vehicle mounted transponder and a handheld transponder are determined to be within the respective vehicle fueling range and close range, overriding the use at the dispenser of the vehicle mounted transponder, whereupon the handheld customer identification data received by the reader is associated with a transaction at the dispenser, and the transaction is permitted and charged to the customer according to the handheld transponder customer identification data as recited in independent claim 57.

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil, whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

The fax phone number for this Art Unit is (703) 305-0040.

Serial Number: 09/224,027

Page 5

Art Unit: 2164

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

FP

08Sep01

*FP*

**Frantzy Poinvil**  
**Primary Examiner**  
**Art Unit 2164**